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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.       | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------------|------------------|
| 10/566,533   | 01/30/2006  | Osamu Moriura        | F-8984                    | 5842             |
| 28107  | 7590        | 11/13/2008           | EXAMINER                  |                  |
| JORDAN AND HAMBURG LLP<br>122 EAST 42ND STREET<br>SUITE 4000<br>NEW YORK, NY 10168 |             |                      | MCQUELLAND, KIMBERLY KEIL |                  |
|  |             |                      | ART UNIT                  | PAPER NUMBER     |
|  |             |                      | 1791                      |                  |
|  |             |                      | MAIL DATE                 | DELIVERY MODE    |
|  |             |                      | 11/13/2008                | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/566,533             | MORIURA ET AL.      |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | KIMBERLY K. MCCLELLAND | 1791                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 August 2008.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.  
 4a) Of the above claim(s) 6-14 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5 and 15 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 30 January 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 1/30/06, 4/18/06.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I, claims 1-5 and 15 in the reply filed on 08/15/08 is acknowledged.
2. Claims 6-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 08/15/08.

### ***Double Patenting***

3. Claim 15 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5, 9, and 10 of copending Application No. 12/231970. While not identical, claim 10 is drawn to a similar method as claim 15 of the current invention, and would be obvious in view of claims 1, 5, and 9.

This is a provisional obviousness-type double patenting rejection.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1-5 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 1 recites the limitation "the respective roll faces" in line 6. There is insufficient antecedent basis for this limitation in the claim.
7. Claim 4 recites the limitation "the same roller face" in line 6. There is insufficient antecedent basis for this limitation in the claim.
8. The term "highly absorbent resin particle" in claim 5 is a relative term which renders the claim indefinite. The term "highly" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. While examples of possible particle compositions are provided in the specification, it is unclear how these resins distinguish over other absorbent resins. No standard or range is given to differentiate highly absorbent resins from absorbent resins. Clarification is required.
9. Claims 2-3 and 15 are rejected due to their dependency on independent claim 1.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,237,945 to White.

12. With respect to claim 1, White discloses a method of forming a water barrier, including shifting the base sheet (250), the powder particle layer (222/224/226) and the covering sheet (240), with each of the sheets and the layer being held on the respective roller faces; and bonding the base sheet, the powder particle layer and the covering sheet into an integral form, after the powder particle layer has been transferred onto the base sheet (See Figure 4).

13. As to claim 2, White discloses transferring the powder particle layer (222/224/226) onto the base sheet (250), with the powder particle layer being shifted in the same direction as the base sheet (See Figure 4).

14. As to claim 3, White discloses shifting speeds of the base sheet (250), the powder particle layer (222/224/226) and the covering sheet (240) are set to the same (See Figure 4).

15. As to claim 4, White discloses the process for transferring the powder particle layer on the base sheet and the process for bonding the covering sheet are carried out on the same roller face (252/ See Figure 4).

16. Claims 1-5 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,232,674 to Melican.

17. With respect to claim 1, Melican discloses a method of forming a liquid absorption device, including shifting the base sheet (6), the powder particle layer (1) and the covering sheet (5), with each of the sheets and the layer being held on the respective roller faces; and bonding the base sheet, the powder particle layer and the

covering sheet into an integral form, after the powder particle layer has been transferred onto the base sheet (See Figure 1).

18. As to claim 2, Melican discloses transferring the powder particle layer (1) onto the base sheet (6), with the powder particle layer being shifted in the same direction as the base sheet (See Figure 1).

19. As to claim 3, Melican discloses shifting speeds of the base sheet (6), the powder particle layer (1) and the covering sheet (5) are set to the same (See Figure 1).

20. As to claim 4, Melican discloses the process for transferring the powder particle layer on the base sheet and the process for bonding the covering sheet are carried out on the same roller face (3/4; See Figure 4).

21. As to claim 5, Melican discloses the powder particle layer is constituted by a highly absorbent resin particle layer (column 2, lines 36-63).

22. As to claim 15, Melican discloses the sheet-shaped body manufactured by the manufacturing method according to claim 5 (E) is sandwiched between a liquid-permeable top sheet (D) and a liquid- impermeable back sheet (H) to be bonded into an integral form so that the disposable absorbent article is produced (see Figure 2).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KIMBERLY K. MCCLELLAND whose telephone number is (571)272-2372. The examiner can normally be reached on 8:00 a.m.-5 p.m. Mon-Thr.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip C. Tucker can be reached on (571)272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kimberly K McClelland/  
Examiner, Art Unit 1791

KKM

/Philip C Tucker/  
Supervisory Patent Examiner, Art Unit 1791